

FTC submission 18 April 2004

Ref: CAN-SPAM Act Rulemaking, Project No. R411008

From Trevor Clarke, [REDACTED] UK

Thank you for the opportunity to give you my comments before you decide on the wording of the new regulations under the CAN-SPAM Act. Although I am based in the UK your rulings will have a major impact on the future of my online business.

I am writing this to urge that the commissioners make a clear distinction on what is classified as transactional mailing, that will protect my business as a small one person operation, and not impose a burdensome requirement from every communication falling under one term of commercial marketing and the proposed suppression list, which will effectively bring my existing business to an end.

I am still relatively new to internet marketing, only 6 months now. In that time I have spent a lot of both time and money, investing in building a legitimate online marketing business. A main part of that is in building a list of opt-in subscribers for a free home business tips newsletter.

In every article there will be between two and four website links, most related to the article itself, some not. Most of the products or services I have purchased and use, or use in a free capacity. If anyone should make a purchase, I earn commission from that, as an affiliate. The aim is where everyone should win. The reader receives useful information for free and I generate revenue if they choose to click on the links and make a purchase.

It is worth emphasising what I make very clear in the first message following the subscription:

1. What it is that they registered to receive. The aim of the newsletter.
2. How they can easily remove themselves from future mailings with an automatic removal link.
3. The commercial aspect by providing the weblinks where products or services are offered.
4. An emphasis that no get rich schemes are promoted, only that any form of success requires hard work, application, time investment and some common sense.
5. A small amount of money investment is needed to get a business up and running.

It is also worth noting that I am on the receiving end of transactional relationship mailing, subscribing to many free newsletters, where I am happy to be given updates tips and advice and look at recommended websites for products or services. If I click on the removal link, this is respected. I receive good customer service.

I hope that you will see this as a valid distinction of 'transactional relationship mailing/marketing and recognise it as a legitimate form of communication that is not subject to the suppression list rules, intended to bring unscrupulous spammers to account.

Yours truly,

Trevor Clarke

C. Modifying the 10-business-day time period for processing opt-out requests. For a one person operation who goes away for a 2 week vacation, this is a concern. The majority of the time it will be within 10 business days but 15 business days should be permitted to ensure a legitimate operator does not fall foul of the rules by default.

F.REPORTS The implementation of a system for rewarding those who supply information about CAN-SPAM violations.

This puts at risk legitimate business operators from over zealous or mistaken reporting, from those keen to be rewarded and not clear on what is NOT spam. Allowances need to be made for human error. There is also the risk of malicious allegations, for whatever reason.

The effectiveness and enforcement of the CAN-SPAM Act.

It is vital that the rules are framed in a way that does NOT drive out many legitimate business operators from unintended consequences. Too many restrictions and requirements will do that, especially from the proposed suppression list. Yet the spammers will continue without regard to the rules and if they get hold of the suppression lists it could cause chaos.

Transactional relationship mailing should be recognised as a distinction where a person has willingly opted in to receive information from that person and accepts that there is a commercial element, where products or services will be recommended. If receiving a solo advertisement between these messages, the recipient should have the option to opt out of receiving either the same advertised message, or any future solo advertisement, separate to the free content information. But only applicable from the sender only. Cross referencing will become burdensome and complicated to adhere to. If people do not like what is being promoted to them, they unsubscribe to the information ezines or contact, thereby ending the transactional relationship.